Northwest Territories Legal Services Board

2006/2007 ANNUAL REPORT OF THE LEGAL SERVICES BOARD

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MESSAGE FROM THE BOARD

The Legal Services Board has seen a number of changes this year and the implementation of new programs.

The Board was very pleased to put in place a new contractual arrangement to provide 24-hour access to legal services for people taken into custody by the RCMP (*Brydges* services). If a person taken into custody wishes to exercise their right to contact legal counsel, the Board now provides access to a lawyer 24 hours a day, 365 days a year. Rather than our previous process of assigning lawyers each week to take these calls there is now one lawyer contracted to provide this service. The Board is happy with the service being provided and believes that clients are being better served.

The Board entered into a pilot project with the Centre for Northern Families to provide outreach to clients of the Centre who might require legal services. While the use was not high the Board has determined that it may be useful to continue providing the services of court workers at the Centre on a weekly basis as well as establishing a drop in program at the main legal aid office.

Despite shortages of lawyers in the family law area and a developing shortage of criminal lawyers, the Board has maintained its high level of service in both areas of the law. Much of this has been due to the ongoing and committed work of our staff lawyers who are prepared to carry on with large volumes of work and to accept files on short notice.

The Board has continued to assist in the development of the NWT bar by providing articling positions to law graduates and is proud to be assisting, with the Department of Justice, with the final stage in the legal education of some of our northern aboriginal law students. The Board hopes that this program will continue, that students will continue to seek articling positions in the NWT and that more will remain to establish themselves in practice in their home communities.

Thank you to the Board members and the ongoing support of all our administrative staff.

Danny Beaulieu
Chair

Lucy Austin
Executive Director

THE BOARD OF DIRECTORS

Board Members

The Minister of Justice appoints members of the Board of Directors in accordance with section 3 of the *Legal Services Act*. The *Act* provides for representation on both a regional and interest basis. By convention the various regions are represented on the Board. In accordance with that section, the 2006/07 Board was composed of the following:

Danny Beaulieu	Chairperson, Representing the communities of Łutselk'e, Fort Resolution, Detah, N'Dilo, Fort Smith
Margaret Mackenzie	Representing the Tłı̨chǫ communities
Reg Tolton	Representing the Public Service
Albert Lafferty	Representing the communities of Fort Providence, Hay River, Hay River Reserve, Enterprise and Kakisa
John Hazenberg	Representing the communities of Fort Simpson, Jean Marie River, Wrigley, Fort Liard, Nahanni Butte and Trout Lake
Sheila MacPherson	Representing the Law Society of the NWT
Arlene Hache	Representing Yellowknife
Shirley Kisoun	Representing the communities of Inuvik, Aklavik, Fort McPherson, Tsiigehtchic
Gilbert Thrasher	Representing the communities of Paulatuk, Ulukhaktok, Sachs Harbour, Tuktoyaktuk
Alphonsine McNeely	Representing the Sahtu communities

Mandate of the Board of Directors

The Board sets policy, hires the Executive Director, administers legal aid clinics, maintains a panel of private lawyers for eligible clients for criminal, family, and civil matters and hears appeals in cases where legal aid has been denied, lawyers require more hours than are permitted by the regulations or policies, or lawyers feel their accounts have been reduced improperly. Additional powers are prescribed under section 11 of the *Legal Services Act*.

LEGAL SERVICES BOARD

The Government of the Northwest Territories has been responsible for providing legal since since 1971. Previously, the Government of Canada was responsible for the administration of justice in the NWT. The Legal Services Board was established and given responsibility for providing legal aid, court worker services and public legal education and information services throughout the Northwest Territories.

Today, the Board operates three legal aid clinics; two clinics, one in Yellowknife and one in Inuvik, provide both family and criminal law services and a second clinic in Yellowknife provides family law services. The clinics serve all the communities in the NWT.

The Legal Services Board is established as a corporation by the *Legal Services Act,* RSNWT 1988, c. F-4. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act,* RSNWT 1988, c. F-4.

Legislative Objectives

The objects of the Board are set out in section 7 of the *Legal Services Act:*

1. To ensure the provision of legal services to all eligible persons;

2. To ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and

3. To develop and co-ordinate Territorial or local programs aimed at:
   (a) reducing and preventing the occurrence of legal problems, and
   (b) increasing knowledge of the law, legal processes and the administration of justice.

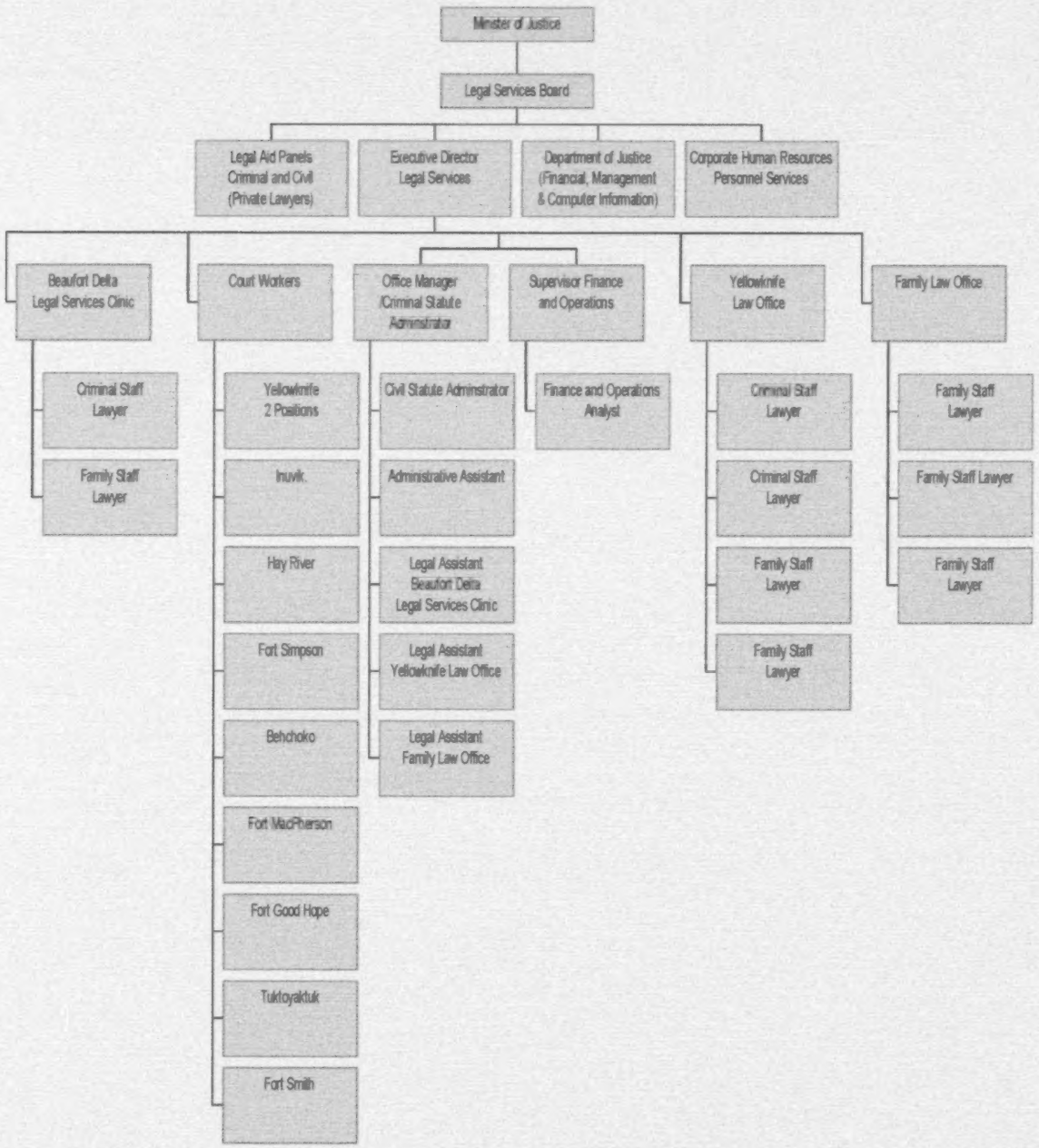
Board Meetings

The Legal Services Board of the NWT met in Yellowknife on four occasions:

April 7, 2006
September 22, 2006
December 8, 2006
March 2, 2007

ORGANIZATIONAL STRUCTURE

The following organization chart reflects the structure of the Legal Services Board as of March 31, 2007.



COURT WORKER PROGRAM

In the Northwest Territories, court workers help people who come into contact with the justice system. Their primary duty is to help clients apply for legal aid and ensure the applications and supporting documentation are provided to the Legal Aid office. Court workers also provide general information and referrals to services inside and outside the justice system.

Some court workers may also represent individuals without a lawyer. in Justice of the Peace Court. They generally provide assistance with guilty pleas, the resulting sentencing hearings and occasionally with simple trials. They also assist legal counsel in Territorial and Youth Court by ensuring clients and witnesses attend court, helping with translation and communication, gathering information, and interviewing clients. On rare occasions, court workers may help a client with a guilty plea and sentencing in Territorial Court.

Court workers also play a direct role in public legal education through their daily contact with clients, providing information and guidance with respect to the court system and through their referral to other services. Court workers provide legal education through their work with school classes, justice committees, and promote the program by attending at community career fairs, putting public announcements on radio and providing information at seminars and programs in their communities. Some court workers also sit on community inter-agency committees.

The Legal Services Board has eleven court workers in ten communities in the NWT. Ten are Board employees and one provides services under an agreement with the Hamlet of Ulukhaktok.

PUBLIC LEGAL EDUCATION & INFORMATION

The Legal Services Board is responsible for Public Legal Education and Information in the Northwest Territories. Public legal information is disseminated in a number of formal and informal ways.

The Law Line, a call-in information line staffed by local lawyers, was the highest profile method. The service operated Tuesday and Thursday evenings, from 6:00 to 8:30 pm and was available toll-free to residents of the Northwest Territories. Volunteer lawyers provided basic legal information in response to people's questions. Lawyers did not provide legal advice through the Law Line. With the overall shortage of lawyers, it has become increasingly difficult to find volunteers to staff the line.

Court workers, and the staff and lawyers at our legal aid clinics routinely provided basic legal information. In addition, the Board provides pamphlets about individual rights and remedies, court proceedings, and local resources available to our clients. During this fiscal year the Board worked jointly with the Department of Justice to produce a family law manual and brochures. Publication of the material is expected in the next fiscal year.

LEGAL AID COVERAGE

Youth Applications – *Youth Criminal Justice Act (Canada), Youth Justice Act (NWT)*

Legal services are generally provided to financially eligible youth charged with offences under the *Criminal Code* and who are required to make an appearance before a Territorial Youth Court Judge or if a matter is brought before the NWT Supreme Court or Court of Appeal. On occasion, legal aid coverage may be extended to cover matters in the Justice of the Peace Court.

Legal aid coverage is not provided for youth for criminal or other statutory offences where the matter (s) are proceeding by way of summary conviction unless:

1. There is a reasonable possibility that upon conviction the youth may be incarcerated by way of open or closed or secure custody;

2. There is a reasonable possibility that upon conviction, the youth's livelihood may be prejudiced; or

3. There exists, in the opinion of the Executive Director, special circumstances.

Adult Applications – *Criminal Code*

Although an applicant may be financially eligible for legal aid, the Board or Executive Director can refuse to provide legal aid coverage for certain offences as set out in the Act and Regulations.

Presumed Eligibility

Presumed eligibility arises only in the context of criminal law. Clients who appear in court on docket days are presumed to be eligible for legal aid and are provided assistance for preliminary or straightforward matters that duty counsel can deal with in a summary fashion. If the lawyer determines that the matter requires a preliminary inquiry, trial or a more complex sentencing, the client will be asked to apply for legal aid to have counsel appointed.

Civil Applications

The *Act* authorizes the provision of legal aid services on a discretionary basis for many civil matters. The *Act* and *Regulations* specify that some civil cases are not covered. The Executive Director may refuse to authorize legal aid if the civil case is of the type when a lawyer would ordinarily agree to act on a contingency basis.

Examples of civil related matters that have received legal aid coverage are: Workers' Compensation appeals, residential tenancy appeals, and wrongful dismissal in certain cases.

Family Law Applications

Legal aid is generally provided to financially eligible applicants in matters involving family breakdowns when there are issues relating to children, spousal support, family violence or in matters relating to child protection.

After an application is made for legal aid assistance involving a family law matter, a request goes out to one of the staff lawyers or family/civil law panel members for a legal opinion. The lawyer must advise the Legal Services Board on the merits of the matter. If the opinion is that there is no merit in proceeding, the applicant will receive a Notice of Denial of Legal Aid and an explanation of the reason for the denial.

Approved matters are usually assigned according to the date of application. An exception is made, and matters are given priority in assignment, when the client is facing a court date, the matter involves family violence or the client is facing child protection proceedings.

Residency and Reciprocity

A person not ordinarily resident in Canada is not eligible for legal aid coverage except in relation to charges under two federal Acts.

The Legal Services Board of the NWT is a participant in the Inter-Provincial Reciprocity Agreement that allows legal aid coverage to be extended to applicants from any jurisdiction that require assistance with a civil or family matter arising in another Canadian jurisdiction. The costs of providing the service are borne by the legal aid plan in the jurisdiction where the matter is heard.

FINANCIAL ELIGIBILITY

Legal Aid Applications

People must complete an application to receive legal aid. The Board uses standard forms and court workers take the applications in person or by telephone. Applicants are usually required to provide detailed financial information with backup documents. This information includes a statement of income for the applicant and anyone living in the household plus a detailed statement of expenses, liabilities, debts, and assets. This information is used to determine an individual's eligibility for legal aid.

Board employees review applications in detail to determine the applicant's financial eligibility. Eligible applicants are assigned duty counsel for criminal matters or goes into a rotational assignment process for family and civil law matters. Applicants not financially eligible are sent a notice of denial. All applicants can appeal a denial to the Executive Director and then to the Legal Services Board.

In some cases, using criteria set out in the *Act* and *Regulations*, the staff may determine that an applicant can make a contribution to the cost of their legal aid services. A conditional authorization for legal aid is given to the applicant requiring a contribution in order to receive legal aid. Usually applicants have a set time period to make their contributions. Some applicants are assessed a contribution to be paid on the completion of their file as it is expected there will be a financial gain for the client at that time. In cases involving property division, applicants are subject to a full recovery of fees and disbursements incurred on their behalf.

Contributions and recoveries are deposited into the Government of the NWT Consolidated Revenue Fund and are not used to offset the cost of legal aid.

Financial Eligibility for Youth, Minors and Infant Children

In determining whether a youth, as defined by the *Youth Criminal Justice Act*, (Canada) (12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act*, is eligible for legal aid, the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The Board does exercise discretion when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s) then the Board will provide legal aid services.

The Legal Services Board has an arrangement with the Director of Child and Family Services, Department of Health and Social Services, to recover the costs of appointing legal counsel for children when the Court has ordered that the children require their own lawyer in child protection proceedings under the *Child and Family Services Act*.

LEGAL AID ASSIGNMENTS

Panels

The *Legal Services Act* requires work be assigned to members of the Panel in rotation on a fair and equitable basis. The Executive Director assigns approved applicants a lawyer from the Legal Aid Panel. Lawyers located in communities other than Yellowknife are given priority for legal aid assignments in their community and the surrounding area for economic efficiency.

Choice of Counsel

Applicants do not get to choose a lawyer unless they are charged with offences for which the maximum penalty, if convicted, is life imprisonment. However, there is no choice of counsel where an applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An approved applicant who has choice of counsel can choose any lawyer resident in the Northwest Territories who is on the panel and willing and able to take the case.

Circuit Counsel

The *Legal Services Act* requires the Board to have at least one lawyer (circuit counsel) accompany the Supreme and Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid on the circuit. Applicants for such services are subject to the same criteria as all other applicants who need legal services.

LEGAL SERVICES CLINICS

Yellowknife Law Office

The Yellowknife Law Office provides two family law lawyers, two criminal law lawyers and one support staff member. The criminal law lawyers provided legal aid services mainly in the Yellowknife area and in the Tłı̨chǫ communities but also in other communities as needed. The family law lawyers provide services to clients across the Territory.

Beaufort Delta Legal Services Clinic

The Beaufort Delta Legal Services Clinic operates in Inuvik and has two lawyers and one support staff. The clinic provides services in criminal law and family law primarily in the Beaufort Delta region.

Family Law Clinic

The Family Law Clinic opened in October 2004 in Yellowknife with two lawyers and one support staff member. The Board decided to create a third position in this office at its December 2005 meeting. The staff lawyers provide services exclusively in the family law area to clients throughout the NWT.

APPEALS

There are a number of situations in which an applicant or a lawyer has a right of appeal from a decision made by the Executive Director. If an applicant is assessed a contribution or denied legal aid, the applicant can appeal the decision by providing written notice of his/her intention to appeal and the Executive Director shall bring the matter before the Board for an appeal hearing.

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required and the Executive Director is required to bring the matter to the Board for an appeal hearing. There is no right of appeal from the Board's decision.

ADMINISTRATION AND FINANCE

Funding for the Legal Services Board

The Legislative Assembly allocates money to the Legal Services Board to administer the *Legal Services Act* and provide legal services and other programs under the *Act*. The GNWT receives funding for the Legal Aid Program, aboriginal court workers, and public legal education through the Access to Justice Agreement with the Federal Government. This funding agreement expired March 31, 2007. It provided for base funding of $1,569,595 for these three areas and additional monies through an Investment Fund in the amount of $402,732. Negotiations between the GNWT and the Federal Department of Justice are in progress to determine the level of future Federal funding.

Any deficits incurred by the Legal Services Board have been absorbed by the GNWT Department of Justice. Any change in that arrangement would mean requesting a supplementary appropriation from the Legislative Assembly.

Personnel

The staff of the Legal Services Board are appointed and employed under the *Public Service Act* and are public servants in the Department of Justice. Consequently, the Legal Services Board is subject to the provisions of the Human Resources Manual of the Government of the Northwest Territories. The Department of Human Resources provides personnel services to the Board. It is the responsibility of the Board to determine which positions are necessary for the proper conduct of the Board's business.

Financial Services

Financial services are provided by the Department of Justice. Since the Board does not hold separate funds, it is not audited separately from the Department of Justice. However an annual audit is completed for compliance with the Access to Justice Agreement with Canada.

Investment Fund

In addition to its base funding the Board, through the Department of Justice, obtained funding under the Investment Fund to assist with meeting unmet needs for the period 2003 to 2006 with an extension granted to March 31, 2007. Unmet needs were identified in seven initial areas for the first year with the flexibility to shift to new areas over the life of the agreements.

The seven areas are:

Access to Legal Aid in rural and remote areas
Making the Beaufort Delta Court Workers members of the public service
Making staff lawyers members of the public service
Recruiting, hiring, and retaining family staff lawyers
Investing in computer hardware and software
Official language services
Recruit, hire, and retain an Investment Fund Resource Officer

LEGAL AID TARIFF*

Experience	Hourly Rates	Daily Rates
Student at law	$53	$307
Less than 4 years	$81	$465
4-6 years	$93	$576
7-10 years	$114	$681
11 & more years	$135	$805

The rates are the same regardless of the level of court.
*This tariff came into effect July 1, 2006

STAFF LAWYER SALARIES

Staff lawyers, as GNWT employees, are paid according to the pay scales established for GNWT legal counsel. These rates are based on legal experience and were as follows for 2006-2007:

Legal Counsel I	$ 76,713 - $ 87,017
Legal Counsel II	$ 83,597 - $ 94,813
Legal Counsel III	$ 91,124 – 103,357
Legal Counsel IV	$ 99,236 – 112,567
Legal Counsel V	$ 103,584 – 117,502

2006/07 Financial Report

ITEM	Actual Expense	Revised Budget	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	552,527	538,000	(14,527)
Administration Travel	18,782	20,000	1,218
Operations & Maintenance Expenses	41,919	48,000	6,081
Total Administration	613,228	606,000	(7,228)
Courtworkers			
Staff Wages and Benefits	861,577	881,100	19,523
Courtworker Travel	45,710	31,000	(14,710)
Operations & Maintenance Expenses	47,009	27,000	(20,009)
Total Courtworkers	954,296	939,100	(15,196)
Board Costs			
Honoraria	19,963	25,000	5,038
Travel, Accomodation, Meals	32,484	30,000	(2,484)
Other	7,342	-	(7,342)
Total Board Costs	59,788	55,000	(4,788)
Public Legal Education			
Lawline	3,451	3,500	49
Projects	6	-	(6)
Other	1,730	30,000	28,270
Total Public Legal Education	5,187	33,500	28,313
Legal Aid Staff Lawyers			
Staff Wages & Benefits	1,056,347	1,171,300	114,953
Legal Aid Staff Lawyer Travel	19,974	14,000	(5,974)
Operations & Maintenance Expenses	101,778	26,000	(75,778)
Total Legal Aid Staff Lawyers	1,178,099	1,211,300	33,201
Legal Aid Fees & Disbursements	1,677,534	1,890,500	212,966
SUB - TOTAL	4,488,133	4,735,400	247,267
TOTAL	4,488,133	4,735,400	247,267

STATISTICAL REPORTS FOR 2006/07

Number of Applications Received

Origin of Application	2003/04	2004/05*	2005/06	2006/07
Out of Territory	15	24	32	31
Beaufort Delta Region	312	258	349	361
Sahtu Region	39	104	76	106
South Slave Region	289	245	252	222
North Slave/Treaty 11	74	165	150	133
Dehcho Region	89	143	141	101
Yellowknife	704	496	519	501
Total	1522	1435	1519	1455

*The number of applications received for 2004/05 has been updated. Because of a vacant court worker position, applications received in the Deh Cho had previously been reported in other regions. The new numbers reflect the community where the applicant resided.

Number of Applications Received By Case Type

Case Type	2003/04	2004/05	2005/06	2006/07
Adult Criminal	766	697	742	721
Youth Criminal	62	75	111	67
Family	633	637	621	621
Civil	61	26	45	46
Total	1522	1435	1519	1455

Number of Approved and Denied Applications By Case Type 2006/07

Case Type	Approved	Denied	Total
Adult Criminal	613	108	721
Youth Criminal	56	11	67
Family	288	333	621
Civil	14	32	46
Total	971	484	1455

Number of People Assisted Under Presumed Eligibility 2006/07

Counsel	Adult	Youth	Show Cause	Total
Beaufort Delta - Staff Lawyers	43	8	0	51
Yellowknife – Staff Lawyers	436	127	54	617
Legal Aid Panel Lawyers	2105	653	117	2875
Total	2584	788	171	3543

COURT WORKER STATISTICS 2006/07

Legal Aid Applications Taken

		Aboriginal	Non-Aboriginal
Adult Criminal Matters			
CDSA (drug offences)		31	10
Criminal Code		560	140
Territorial Offences		41	4
s. 810 (peace bonds)		0	0
Appeal Sentence/Conviction		6	0
Other		2	1
	TOTAL	**640**	**155**
Youth Criminal Matters			
CDSA (drug offences)		5	0
Criminal Code		64	8
Territorial Offences		7	1
Appeal Sentence/Conviction		0	0
Other		11	0
	TOTAL	**87**	**9**
Family and Civil Matters			
Divorce/Custody/Support		435	133
Child Protection		57	6
Landlord-Tenant		2	4
Employment Matter		1	3
s.810/Restraining Orders		22	2
Other		17	9
	TOTAL	**534**	**157**
TOTAL APPLICATIONS TAKEN		**1261**	**321**

Note: Not all applications taken by court workers are processed into the system. This explains the difference between the number of applications reported on this page and the previous page.

Court Worker Appearances with/for Clients

		Aboriginal	Non-Aboriginal
Adult Criminal Matters			
Territorial Court		5	0
JP Court	- Territorial Offences	73	17
	- Criminal Code	152	11
	- s. 810 (peace bonds)	10	2
Justice Circle/Show Cause Hearing		7	0
	TOTAL	**247**	**30**
Youth Criminal Matters			
Territorial Youth Court		0	0
JP Court		18	0
Justice Circles		0	0
	TOTAL	**18**	**0**
Family and Civil Matters			
Territorial Court		12	1
Supreme Court		0	0
Board or Tribunal		4	1
	TOTAL	**16**	**2**
TOTAL APPEAR WITH/FOR CLIENT		**281**	**32**

In 2006/07 Court Workers provided legal information and/or referrals to 2,833 inquires from aboriginal clients and 1,293 non-aboriginal clients. These numbers include both in person and telephone inquiries.

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT
Panda II Centre – 3rd Floor
P.O Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5320

Staff Law Office
Panda II Centre – 3rd Floor
P.O Box 11028
Yellowknife NT X1A 3X7
Tel: (867) 920-6108
Fax: (967) 873-0526

Beaufort Delta Legal Services Clinic
151 MacKenzie Road
P.O. Box 1100
Inuvik NT X0E 0TO
Tel: (867) 777-2030
Fax: (867) 777-3211

Family Law Office
Unit 44, 5014-49th Street
Centre Square Mall
Yellowknife, NT X1A 3R7
Tel: (867) 920 3365
Fax: (867) 873 0652

Hay River Court Worker
105 – 31 Capital Drive
Hay River NT X0E 1G2
Tel: (867) 874-2475
Fax: (867) 874-3435

Behchokǫ̀ Court Worker
General Delivery
Behchokǫ̀ NT X0E 0Y0
Tel: (867) 392-6386
Fax: (867) 392-6387

Fort Smith Court Worker
P.O. Box 170
Fort Smith NT X0E 0P0
Tel: (867) 872-6568
Fax: (867) 872-3602

Yellowknife Court Workers
P.O. Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5230

Fort Simpson Court Worker
P.O. Box 178
Fort Simpson NT X0E 0R0
Tel: (867) 695-7315
Fax: (867) 695-7358

Tuktoyaktuk Court Worker
P.O. Box 200
Tuktoyaktuk NT X0E 1C0
Tel: (867) 977-2260
Fax: (867) 977-2154

Fort McPherson Court Worker
P.O. Box 304
Fort McPherson NT X0E 0J0
Tel: (867) 952-2756
Fax: (867) 952-2042

Ulukhaktok Court Worker
P.O. Box 157
Ulukhaktok NT X0E 0S0
Tel: (867) 396-8002
Fax: (867) 396-3256

Inuvik Court Worker
P.O. Box 1100
Inuvik NT X0E 0T0
Tel: (867) 777-2030
Fax: (867) 777-3211

Fort Good Hope Court Worker
P.O. Box 239
Fort Good Hope NT X0E 0H0
Tel: (867) 598-2762
Fax: (867) 598-2525